

Tuesday, 28 September 1948

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan

PROCEEDINGS II. CHAMBERS

on

Paper No. 1711, being an application on behalf of Kaname Sakaba and Kunji Suzuki that Hideki TOJO, Kenryo SATO and Heitaro KIMURA, be made available as witnesses in the case of United States of America versus Kaname Sakaba and Kunji Suzuki.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth of
Australia.

Reported by:

Julian Wolf
Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

Mr. Solis Horwitz

For the Defense Section:

Mr. Ben Bruce Blakeney

Mr. George A. Furness

Mr. Franklin E. N. Warren

For the JAGD, 8th Army:

Mr. Ira Kay

Mr. Thomas Duffy

For the Secretariat:

Lieutenant Colonel G. W. Hanley, Executive Officer,
IMTFE

Mr. Edward H. Dell, Legal Adviser, IMTFE

Mr. Paul M. Lynch, Clerk of the Court

The proceeding was begun at 1540.

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THE PRESIDENT: This is Paper No. 1711. It is a message from 8th Army to SCAP through CINCFE, dated 27 September 1948, requesting that Hideki TOJO, former War Minister, Kenryo SATO, former Chief of the Military Affairs Bureau of the War Ministry and Heitaro KIMURA, former Vice War Minister, be made available as witnesses in the case of the United States of America against Kaname Sakaba and Kunji Suzuki at 0900 hours Tuesday, 28 September 1948, Courtroom 12, Judge Advocate Building, Yokohama. During Suzuki's and Sakaba's respective tenures as main camp commander of Tokyo Prisoner of War Area, TOJO visited Tokyo camps. His testimony is necessary to show that accused Suzuki acted under the orders and policies of TOJO.

Well, I don't propose to read the rest of it. Who is the applicant?

MR. KAY: Well, sir, I guess I am.

THE PRESIDENT: On behalf of the two named accused at Yokohama?

MR. KAY: Yes, sir.

THE PRESIDENT: In this message is stated your grounds, I take it?

MR. KAY: Yes, sir.

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THE PRESIDENT: In this message it is stated your grounds, I take it?

MR. KAY: Yes, sir.

THE PRESIDENT: Well, now, what objection is there

to taking an affidavit at Sugamo from those three accused before the Tribunal?

MR. KAY: Well, sir, we have obtained affidavits from all three of the men and we propose that their direct testimony be in the form of the affidavits which we have already taken. The main point is that the prosecution and the commission have objected to the admissibility of such documents because it limits their right to question the three witnesses. Further, we, if possible, desire to have the men present in the courtroom because our experience has been that the weight given to the testimony in the form of an affidavit alone is very little, but that when the affidavit is introduced with the witness present and available for cross-examination it has helped us considerably in the past and we anticipate it will be tremendously helpful in this particular case.

THE PRESIDENT: Well, why not take it on commission in the jail? Then, you would have cross-examination.

MR. KAY: I don't quite understand.

THE PRESIDENT: Is the question of credibility so great in a matter of that kind that you must bring the witness into court and have him cross-examined there? Could he not be cross-examined on commission in Sugamo Jail to the same effect?

MR. KAY: Well, sir, the exact mechanics is something

that we considered would be worked out. We thought and we believed it could be feasible to have the commission meet at Sugamo to take the testimony of all three of these accused, and in our original application those details were not decided but at least we threw them out for whatever value the SCAP and the other powers that would have to decide this matter, to consider it, would. In other words, we at no time insisted that he be brought down to Yokohama, but that he be made available to the prosecution and the commission for questioning, cross-examination, and I believe that there is a room available in Sugamo where we could hold this commission.

THE PRESIDENT: That is probably a reasonable request. If he is really a necessary witness and all security measures are taken, if the trial is really adjourned from Yokohama to Sugamo, there may not be any objection. But, of course, the question arises as to publicity and bringing the prisoner into open court. I don't know if he should be; that would be a matter of security.

MR. KAY: Sir, we have gone to this extent: when this matter first came up it was discussed from a publicity angle and we have instructed the Japanese counsel in the case and the accused to speak to no one about the appearances of these men as witnesses or to discuss the evidence that they may give in the court, and that if an

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publicity at all were to be given this it would be handled by either the 8th Army or SCAP Public Relations Section.

THE PRESIDENT: Of course, I know nothing as to the attitude of the Tribunal at Yokohama. It would be for them to say whether they were to adjourn to Sugamo to take evidence.

MR. KAY: Sir, I can speak on behalf of the Tribunal. If it is considered that the only way to hold the hearing of the testimony on these witnesses would be to adjourn to Sugamo, they would be willing to adjourn to Sugamo.

THE PRESIDENT: Well, it may be they take the view that they would like to have the assistance of the three accused before this Tribunal in the determination of their case. And if all proper security measures were taken at the direction of the Supreme Commander there may be little objection to that course. But I would like to hear what the prosecution have to say, and also counsel for the accused.

MR. BLAKENEY: Perhaps I might point out that the matter has come on without notice and there is a chance that none of the counsel for these accused is present in the building. Therefore the three of us who have come in are just here as observers. We can think of the various objections which they might or might not wish to make, but

we are in no sense authorized to make it for them.

THE PRESIDENT: Mr. Horwitz.

MR. HORWITZ: Well, as far as the outline of procedure is concerned I have no objection. The prosecution would object to the prisoners being taken out of Sugamo and taken down to Yokohama. Actually, I don't think that any of us have any real control over the matter. It is a matter for the Supreme Commander and we have to get his permission to do it. In any capacity of advising I would have to advise against it. But I can see no objection, that is from the point of view of security and the prosecution point of view, of having the commission from Yokohama go to Sugamo and handle the matter there and get that testimony.

THE PRESIDENT: And take the evidence in camera.

MR. HORWITZ: And take the evidence at Sugamo. There may be objections as Mr. Blakeney points out from the witness' own point of view, which I can readily see, but that is not our position.

THE PRESIDENT: Of course, I am always prepared to hear counsel for the accused before us if they desire to be heard, but I can't see that they can claim to come in on this matter for the simple reason that in no other court would that question arise. In our countries, of course, these applications to produce a prisoner are made

ex parte. It may be in very special cases that this would be heard in party proceedings.

MR. KAY: Sir, if I may, I have been in constant touch with Mr. Blewett and with the other counsel for the accused. They have aided me in every way, and when I got the affidavits from the accused they read over the affidavits with the proposed witnesses before the witnesses signed the affidavits. Mr. Blewett this morning was the one who was kind enough to bring this matter personally to Colonel Hanley's attention in order to expedite the procedure and he also stated at that time that it was all right with Mr. Freeman and Mr. Howard; so I don't believe that any one of the defense counsel of the proposed witnesses have any objection to this.

THE PRESIDENT: Well, now as the order does not involve the removal of a prisoner from one place to another but as proceedings in camera in Sugamo are contemplated and nothing more than that, it is as you suggested, Mr. Horwitz, I think, a matter for the Supreme Commander entirely. The Court is hardly concerned with what happens within the walls of Sugamo. We are only concerned about the prisoners being produced to hear the judgment at the appointed time. The Supreme Commander has to decide whether security requires any special measures to meet the wishes of the applicants.

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MR. WARREN: It has been my opinion that this matter may arise with reference to some of the other accused. It is my opinion that the question of security, as you say, sir, rests with the Supreme Commander. That is not a matter to be brought before the Court, because if these men have any rights they want to be preserved, they can be preserved before the Tribunal.

THE PRESIDENT: But then you are interested in the examination of an accused before this court in another court at this stage. But the accused can always be advised by counsel as to what extent they should answer any question.

MR. FURNESS: Mr. President --

THE PRESIDENT: And I would see no objection, and I think it would be desirable that counsel should be present. But these objections to answer are generally taken by the accused themselves.

MR. FURNESS: Mr. President, Mr. Freeman told me that he was not notified of the taking of any deposition that he would not have advised us to give any deposition; that he did not see the deposition before it was written and that he gave no approval that it was to be taken or of its content. I say that in view of what counsel for the defense in this case in Yokohama has just told you. I also was present at a conversation between him and Mr.

Blewett in which he said that he would object to his client's testifying in this case. I say that also in view of what counsel from Yokohama has just said.

MR. BLAKEMLY: And if I may add, the reason that we assume that counsel for these named accused may be interested is that we have in a number of instances discovered that attempts, successful or otherwise, have been made to take the evidence of our clients in Sugamo without notice to any of us, and it is that practice which we think is an infringement on their rights and which we should like to stop. It is not that I assume it is any objection to these special affidavits, but for that reason I think that counsel should be heard in the matter.

MR. KAY: Well, all I can say is that everyone of these counsel were contacted and we were cleared before we were allowed to see any of these accused in Sugamo. That before any affidavit was executed, the counsel for the accused were given copies of it. In some instances, notably Mr. Blewett and Mr. Warren for DOHIHARA, they actually went up to Sugamo with us and with their own interpreters and had the proposed affidavit retranslated back to the proposed witness and they were present at the time the affidavits were executed. As far as the others, they were cleared by some one purportedly acting on behalf

of these men.

MR. WARREN: With reference to my situation, may I say that I objected strenuously to an approach to my client without first conferring with me about it. After an objection was lodged then they did confer with me about the matter. I went over the matter with them and then after I determined what they wanted and saw that it was not injuring any accused in any manner, I drew the affidavit and I had the affidavit executed and forwarded and there was no necessity to come before the Tribunal and bother the Tribunal whatsoever about it. And had DOHIMARA been needed as a witness in open court there would have been no necessity to bring it before the Tribunal. We wanted these people to come to us and we would cooperate.

THE PRESIDENT: I should have said, too, that we have heard all we are going to hear, as far as I can judge, about the guilt or innocence of the accused, and what is said by them won't affect us in any way even if it comes to our knowledge.

MR. WARREN: I am not quite certain of that.

THE PRESIDENT: And I don't think that any special precautions are necessary to prevent an accused from saying something which might be thought detrimental to them at this stage. But if counsel for the accused would like to be present at any examination in Sugamo Prison, I think

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they should be allowed to be present.

MR. WARREN: Of course.

THE PRESIDENT: I don't think there would be any objection by the Supreme Commander or any one else to that course, but as I see it now, Colonel, it is really a matter outside the jurisdiction of the Court if all this happens within the precincts of Sugamo Prison and no order is involved by this Tribunal to move a prisoner from one place to another for his examination in open court somewhere.

MR. WARRIN: That's precisely correct. I see no reason to bother the Tribunal or anybody else on a matter of this kind, because it is a matter that can be resolved, as far as the security of the prisoners is concerned, with the Supreme Commander and if he doesn't want them to move he won't let them move regardless of what they do. And if they approach us on this matter it can be taken without bothering anybody.

THE PRESIDENT: I think, having clarified the position, there will be no need for any order. Your next approach would be to the Supreme Commander to take the course that you propose. There would be no need to appeal to the Court at any stage as far as I can judge. But I think it would be desirable that if the accuseds' counsel wish to be present they should be allowed to be present.

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Well, have you anything to say to that, Mr. Kay?

MR. DUFFY: Will these minutes be made available so that the proper authorities in SCAP can see, sir, that they will not pass the buck back to the Tribunal again?

THE PRESIDENT: I don't know. I wouldn't anticipate there would be any steps of that nature taken by SCAP.

MR. KAY: We speak because we have been on this circle now for two to three weeks.

MR. DUFFY: Since the 13th of September, sir, we have been pushed around on a merry-go-round and everybody has been burying this application in their desks and we cannot get any action whatsoever.

THE PRESIDENT: We have had the advantage of hearing all parties practically and what they have to say except the accused's counsel; they are not here.

MR. WARREN: Well, your failure to get your witnesses probably is due to the fact that you don't proceed through the proper channels. If you would direct a letter to the prosecution and information copy to the defense, the matter would be taken up immediately with the Chief of Staff or the Supreme Commander and that would be the end of it.

MR. HORWITZ: Actually, what you should do is

send a letter to the Supreme Commander through ICS and through the Defense Section and they can put their endorsements on it and it can go up. But I would suggest that the letter outline the procedure fully: That it's going to be held at Sugamo; that you propose to have defense counsel present representing these men; that you don't intend to move them; that the commission will come out to Sugamo and handle the matter. Then, in view of that, the defense can say if they are going to be present they have no objection. I can say on behalf of the prosecution that I have no objection. The thing goes to the chief of staff for decision.

MR. DUFFY: That is a very good statement of the whole thing except that you leave out the chief channel, which is, going through our own 8th Army. We don't know whether they have been a bottle-neck in the whole procedure or whether or not this has gotten to SCAP. But in order for us to address anything to SCAP it must proceed through 8th Army.

MR. WARREN: Not as defense counsel; the 8th Army doesn't have the authority to send it.

MR. KAY: The letter sent out was signed by the Commanding General of the 8th Army and it was addressed to SCAP.

THE PRESIDENT: Well, the proceedings before me

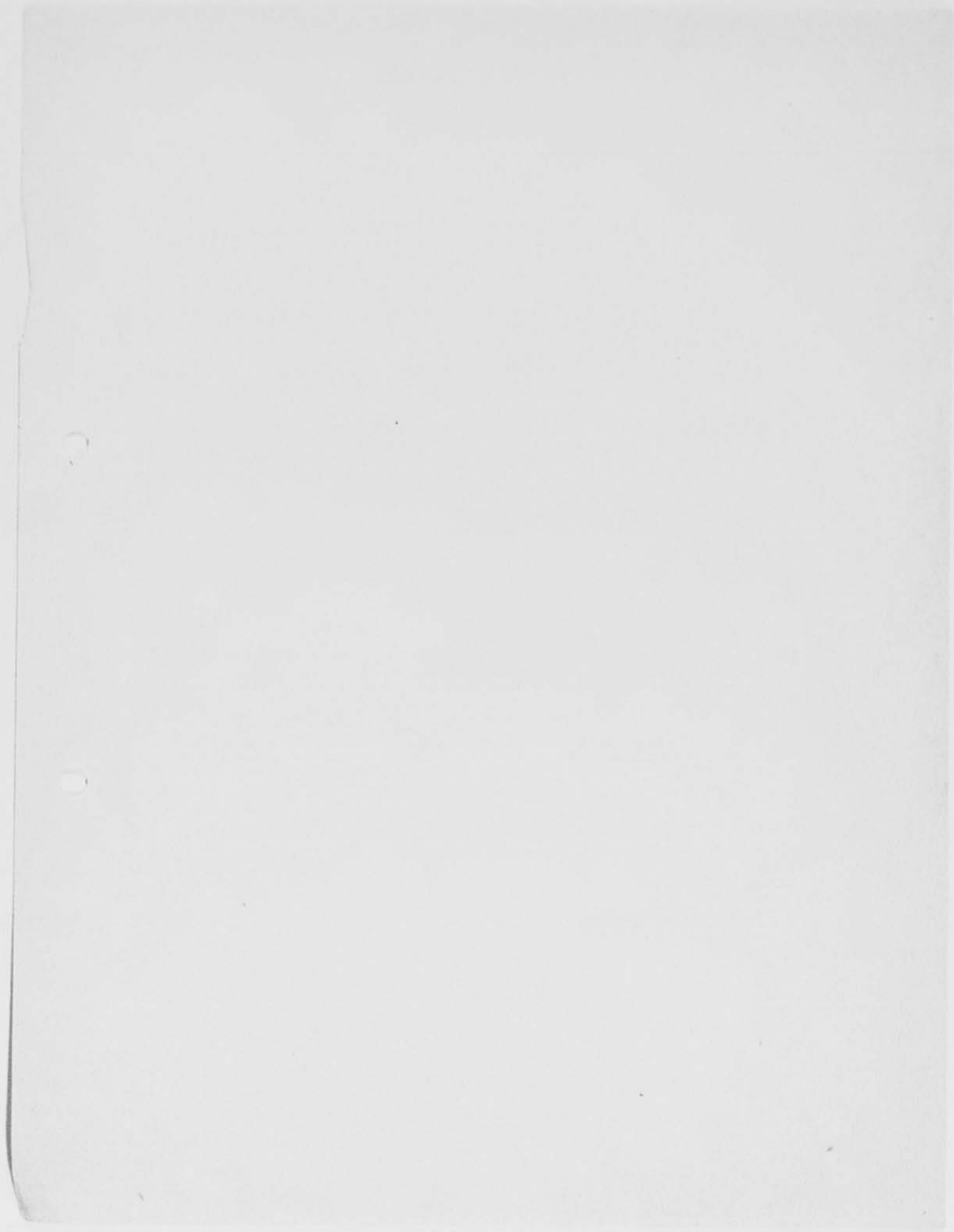
are very informal. This is only a message that I am acting on. There is no occasion for me to hear any application. I think I have said all I can say on that. I suppose your next step would be to refer it to the Supreme Commander on that matter.

MR. KAY: Well, sir, could we have at least a word from you that you, speaking for the Tribunal, have no objection?

THE PRESIDENT: I think involved in what I said is a complete absence of any objection because it is beyond our province for the time being.

The proceedings are closed.

(Whereupon, at 1600, the proceeding was concluded.)



NOTE :

THE FOLLOWING DOCUMENTS
ARE ARRANGED IN NUMERICAL
ORDER WITH WIDE GAPS

Lopez

Doc 10A

當書類ニ目ヲ通ス凡ベテノ人ニ對シ授抄ス、本官ハ
附帶シ有ル目次ニ列呈シタル書類ハ國務省ニ於ケ
ル原文書ヨリノ正確ヲ寫シテ有ル事ヲ證明ス。

本官ハ茲ニ其ノ職權トシテ一九四五年十一月三十日
「コロム比亞區」「ワシントン市」ニ於イテ國務省
印並ビニ本官ノ署名ヲナシタリ。



アメリカ合衆國國務長官

/James F. Byrnes/
ゼトマス・エフ・バーンズ (署名)

★

Document No. 10-B-1

2170
~~EX-105~~

Page No. 1

"JO" 3, "FUTSU", "GO" No. 53

Jan. 13, Showa 17/1942/

Vice-Minister of War,

Vice-Minister of the Navy,

Vice-Minister of Home Affairs.

Matter Concerning Transmission of the Notes from the American Government with regard to the adherence to the Provisions of the International Treaty and the Red Cross Treaty of July 27, 1929, regarding Treatment of Prisoners of War.

Concerning the above, the Swiss Minister in Tokyo has sent us a note as per separate copy, which is enclosed herewith. Your opinion thereof will be appreciated.

Vice-Minister of Foreign Affairs.

This message addressed to: Vice-Minister of War,

Vice-Minister of the Navy,

Vice-Minister of Home Affairs.

A copy of note enclosed.

FILE COPY
RETURN TO ROOM 361

Doc. No. 10 1 1, 10 S 1, 10 B 1,
10 B 2, 10 B 3

C E R T I F I C A T E

T.D.C. No. _____
I.P.S. No. _____

Statement of Source and Authenticity

I, HAYASHI, Kaoru hereby certify that I am officially connected with the Japanese Government in the following capacity: Chief, Archives Section and that as such official I have custody of the document hereto attached consisting of 3/27 pages, dated 12 Feb., 1944, and described as follows: Transmittal of American Government's Protest with regard to the Treatment of Prisoners of War and Civilian Internees in the Area under the Japanese Jurisdiction. I further certify that the attached record and document is an official document of the Japanese Government, and that it is part of the official archives and files of the following named ministry or department (specifying also the file number or citation, if any, or any other official designation of the regular location of the document in the archives or files): Japanese Foreign Office.

Signed at Tokyo on this
27th day of December, 1946.

/s/ K. Hayashi
Signature of Official

SEAL

Witness: /s/ Nogaharu Odo

Chief Archives Section
Official Capacity

Doc. No. 10 M 1, 10 S 1, 10 B 1,
10 B 2, 10 B 3

C E R T I F I C A T E

U.D.C. No. _____
I.P.S. No. _____

Statement of Source and Authenticity

I, HAYASHI, Toru hereby certify that I am officially connected with the Japanese Government in the following capacity: Chief, Archives Section and that as such official I have custody of the document hereto attached consisting of 21 pages, dated _____ 19____, and described as follows: Notes from the American Government with regard to the Application of the Terms of the Geneva Convention of the treatment of Prisoners of War.

I further certify that the attached record and document is an official document of the Japanese Government, and that it is part of the official archives and files of the following named ministry or department (specifying also the file number or citation, if any, or any other official designation of the regular location of the document in the archives or files):
Japanese Foreign Office

Signed at Tokyo on this
27th day of December, 1946.

/s/ K. Hayashi
Signature of Official SEAL

Witness: /s/ Nagaharu Odo

Chief, Archives Section
Official Capacity

Doc. No. 10 M 1, 10 S 1, 10 B 1,
10 E 2, 10 B 3

C E R T I F I C A T E

U.D.S. No. _____
I.P.S. No. _____

Statement of Source and Authenticity

I, HAYASHI, Kōzō hereby certify that I am officially connected with the Japanese Government in the following capacity: Chief, Archives Section, Japanese Foreign Office and that as such official I have custody of the document hereto attached consisting of 6 pages, dated 25 April 1945, and described as follows: Protest from the American Government with regard to the treatment of Prisoners of War. I further certify that the attached record and document is an official document of the Japanese Government, and that it is part of the official archives and files of the following named ministry or department (specifying also the file number or citation, if any, or any other official designation of the regular location of the document in the archives or files):
Japanese Foreign Office

Signed at Tokyo on this
25th day of December, 1946.

/s/ K. Hayashi SEAL
Signature of Official

Witness: /s/ Nagaharu Odo

Chief Archives Section
Official Capacity

Not Used

DOCUMENT 10-R

PLAIN

March 10, 1945

AMLEGATION,

BERN.

1023, Tenth.

AMERICAN INTERESTS - JAPAN

Legation's telegram 6934, October 21, 1944.

Request Swiss Government to communicate following message
textually to the Japanese Government:

QUOTE On September 7, 1944, a Japanese freighter carrying
750 American prisoners of war formerly held at the Davao Penal
Colony was torpedoed and sunk off Liloy, Sindangan Point, Zamboanga
Province, Mindanao, Philippine Islands.

On the basis of irrefutable testimony furnished by prisoners
survivors of the sunken vessel the United States Government
 emphatically protests the cruel inhumane treatment to which these
prisoners were subjected by their Japanese captors, the inhuman
conditions under which they were transported and the outrages
committed against them.

(1) On August 20, 1944, when the prisoners were first
embarked at Tabunco pier, 400 men were crowded into one hold
and 350 into another. In these accommodations it was impossible
for the men to lie down and barely possible for them to sit up-
right.

(2) The hatches were almost continually battened down. In-
numerable men fell into unconsciousness in the fetid and stifling
atmosphere of the unventilated holds and all were reduced to a
state of complete exhaustion. The appeals made to the Japanese
authorities that more air be admitted to the holds were maliciously
ignored.

Serial #107,
Pages 322-325a.

(3) Drinking water furnished to the prisoners was grossly insufficient with the result that the men suffered severe dehydration.

(4) The prisoners' rations were at a starvation level. The food consisted of a meager portion of rice and a small quantity of soup made from spoiled vegetables.

(5) The prisoners were confined under these conditions for fifteen consecutive days, ten of which were spent in the harbor at Zamboanga.

(6) On September 4 the prisoners were transferred at Zamboanga to another ship where 500 men were crowded into one hold and 250 into another. The conditions under which they were confined on the second ship were even more intolerable than those on the first one.

(7) The Japanese authorities failed to provide sufficient flotation equipment and safety devices to safeguard the lives of the men who were being transported.

(8) The behavior of the Japanese officers after the vessel was torpedoed was savage. Under the orders of Lieutenant Hosimoto the guards machine-gunned prisoners in the sea, fired upon and throw grenades upon those hopelessly trapped in the holds, and after seizing the lifeboats for themselves continued firing upon prisoners struggling in the water.

(9) Twenty-nine prisoners were recaptured from the sea by the Japanese, taken to another vessel where they were individually shot and their bodies thrown into the sea. This massacre was carried out under the order of Lieutenant Hosimoto.

These most gross and shocking violations of elementary human decency are wholly inconsistent with the numerous professions of the Japanese Government that it is according humanitarian treatment to prisoners of war. The Japanese Government has stated in justification of other violations of its undertakings and of common

- 3 -

decency that the United States Government has based its protests on misunderstandings of the facts. The United States Government has not misunderstood the facts. The persons who reported these outrages themselves suffered them. These incidents do not involve exceptions to Japan's undertakings in respect to the Geneva Convention that may be excusable on grounds of military necessity. On the contrary, they involve unnecessary derogations arising from wilful disregard by Japanese officers of the undertakings and reputation of their country.

The United States demands that the Japanese Government take effective measures to insure against the recurrence of similar violations of its undertakings to apply the humane standards of the Geneva Convention to American prisoners of war and mete out fitting punishment to Lieutenant Hesimoto and other violators of this undertaking. The United States Government expects that the Japanese Government will communicate to it at the earliest opportunity the steps which it has taken to prevent further incidents of this kind and the punishment that it has inflicted upon those guilty of the grave offenses cited.

In contrast to the matters protested in this communication, there stands out conspicuously the exemplary behavior displayed by a Japanese doctor aboard the vessel. The humane and compassionate conduct of this doctor who, while aiding his own countrymen, benevolently assisted American prisoners of war from the holds in which they were trapped, has won the commendation of the survivors as it must of all humane men.

CREW
Acting

日本政府ハ「ジュネーバ／GENEVA／取リサメ」ニテツ
 テ停戦ハ、彼等ガ停戦トナリシ以後、可及的急短時間
 中ニ戦闘地域ヨリ退避サセラレルデアワウトイフ第七
 條並ニ停戦ハ如何ナル場合ト雖モ、戦闘員帶砲火ニ晒
 サレル地域ニ送ラル可デハ無ク、其ハ停戦ノ期ル事ニ
 従リテ地域入ハ或ル地域ヘノ避難カラ防グ爲ニ使用サ
 レナイデアワウトイフ第九條ヲ適用ス可キデアル。合
 衆國政府ハ日本政府ガ、取リサメノ是等ノ條項ニ従
 ツテ戦争加勢又ハ民間人被抑留者トシテ收容サレ應ル
 米國關係有者ヲ避難ノ爲アル地域カラ該地域外ノ收容
 所ニ移ス義務アリト思惟スルモノデアル。

グルー（代理）

一九四五年三月九日午後八時

ALH 本電報ハ政府機密外ノ例レノ者カニ寄信スル場合
其ノ事前ニ於テ平文ニ併讀サルルヲ要ス。

(同機付)

在ベルン米國公使館宛九九九
BERN

在ロンドン駐米

米公使館ハ英國政府ヨリ同様ノ意味ノ訓令ガ在ベルン
/ BERN / 英國公使館ニ接受サレル場合次ノ様ニ記シ

「スイス」/ Bern / 政府宛傳送相成度。
合衆國政府ハ在東京「スイス」公使ガサ行爲ノ基
本6S規則ヲ被ル、ジュネーブ/ Geneva / 停戦取り決
メ條項ノ被約的行爲ノ履行ニ反對シ左記ノ如ク強硬ニ
抗議スル事ヲ要請スル。

合衆國政府ハ信ズ可キ筋ヨリノ報道ニヨレバ日本當局
ガ停戦收容所ヲ被止場、倉庫、軍需工場、鐵道構内並
ニ其ノ他ノ軍事施設ノ極ク近所ニ位置スル様、今尙續
行シ居ルト云フ教導ヲ受ケテ居ル。從ツテ合衆國政府
ハ日本當局ガ停戦ノ居ル事ニ固リ或地點ヲハ地境ヲ燦
照カラ免レルト企圖スル局會ナ恩恵ノ下ニ行フ政策ヲ
取りツツアルトイフ結論ニ到達スルヲ希望セクサレル。

Army General order No. 2190 (SECRET)

Memorandum concerning the disposition of
enemy airmen involved in air raids.

FROM: KINUMA, Heitaro, Vice-Minister of War.

TO: USHIROMIYA, Sumio, Chief of General Staff.

28 July 1942.

CHINA Expeditionary Force.

This is to inform you that the following has been decided upon in regard to the disposition of the enemy airmen who raid JAPAN proper, MANCHUKUO, and our zone of operations and who enter the territory under our jurisdiction: Persons who abide by the provisions of International Law governing warfare, shall be treated as Prisoners of War. All persons who violate such provisions shall be punished as war criminals.

The commanding general of the National Defense Headquarters, the commanding generals of the various armies in JAPAN proper and her territories, and the Governor-general of HONGKONG and other occupied territories, shall punish as war criminals, all enemy airmen captured within their zones of jurisdiction. All persons who are under suspicion shall be committed to a military tribunal.

In regard to the military tribunal mentioned in the preceding paragraph, the rules and regulations of a special army courts-martial shall govern its proceedings.

Chief of Staff, Operations Section Order No 1140

Memorandum pertaining to the treatment of the enemy airmen involved in the air raid.

FROM: USHIROMIYA, Sumio, Chief of General Staff, CHINA Expeditionary Force.

TO: KIRAWANA, Yasuo, Chief of Staff, 13th Army.

CERTIFICATE

I, ARTHUR A. SANDUSKY, hereby certify:

1. That I am Chief of the Document Division of the International Prosecution Section, G.H.Q., S.C.A.P., and as such have possession, custody and control of original or copies of all documents obtained by the said Section.

2. That among such documents is a copy of Army General order No. 2190 (SECRET) from The Japanese Vice-Minister of War, KIMURA to the Chief of General Staff, USHIROMIYA regarding disposition of enemy airmen who raid Japan proper, Manchukuo and our zone of operations.

3. That IPS Document 16B is a translation of original Japanese document which is an exhibit in the minor war crimes trials in Shanghai and is lodged with the court in Shanghai. The translation in our files was obtained from Legal Section, SCAP.

/s/ Arthur A. Sandusky
ARTHUR A. SANDUSKY

Dated: 10 January 1947.

97A-1

「日本滞任十年」——一九三二年（昭和七年）ヨリ
一九四二年（昭和十七年）迄ノジョムフ、シー、
グルー駐日米大使ノ日記及ビ公私ノ文書カラ選リ
出シタ同時代ノ記録ニカラ

戦 争

一九四二年（昭和十六年）十二月八日

午前七時加瀬カラノ電話デ夢ン被ラレタ。彼ハ
私ニ出タツダケ早タ大臣ニ面會シテ呉レト頼ンデ
來タノデアル。彼ハ午前五時カラスツト私ニ電話
ヲカケヨウトシテヤツテミタガ今迄ズツト通ジナ
カツタト言ツタ。私ハ急イテ服ヲ着テ七時三十
分頃ニ官邸ニ着イタ。加瀬ハ懸賞デアリ東郷ハ冷
淡デ形式張ツテキタ。彼ハ國務省ニ對スル私ノ報
告ノ中ニ書イテアルアノ短イ説明ヲナシソシテ十
二月八日附ノ十三頁カラ成ル地書ヲ私ニ手交シ、
之ハ野村大將ガ今日國務長官ニ渡シタモノデ會談
ノ中絶ヲ通告スルモノデアルトイツタ。ソノ覺書
ノ最後ノ節ハ次ノ如キモノデアツタ。

日本政府ハ茲ニアメリカ政府ノ態度ニ鑑ミ是以
上交渉ヲ續行シテモ協定ニ到達ヘル事ハ出來ナイ
ト考ヘザルヲ得ナイトイフ事ヲアメリカ政府ニ通

97A-2

達セネバナラスノヲ甚ダ遺憾ニ思フ。

東京ハ（午前三時トノコトデアル）天皇陛下ニ
拜謁シ此ノ覺書ハ大統領ノ教書ニ試スル天皇陛下
ノ回答ヲ構成スルモノデアルト云ツタ。彼ハソレ
カラ會談中ノ私ノ語カシタ事ニ試シ簡單ナ感謝ノ
言葉ヲ述べ私ヲ送りニ陛下ノ戸口ノ所マデ下リテ
來タ。眞珠灣ノ事ハ何モ言ハナカッタ。

大使館ヘ邀ルト私ハ終ヲ刺リ副長ヲ済マシメカ
ラ國務省ヘ報告ヲ送ツタガ多分種カチカツタデア
ラウ。ソレカラ間モナク吾々ハ日本ガ米英兩國ト
戦國狀態ニ入ツタトイフ大本營ノ発表ヲ聞イタ。
此ノ事ハ今朝早ク發行サレタ讀賣新聞ノ記事ニモ
載ツテキタ。ソレハ官ノモノデアル特徴ハ全部備
ヘテキタガ最初ハ信ジ難カッタ。午前中オソク外
務省ノ大野ガクロツカーヲ訪問シ手ヲ震ハシ乍ラ
武力戦國カ始マツタトイフ公式発表ヲ彼ニ讀シテ
聞カセタ。

Excerpt from State Department Bulletin, 20 December 1941

(pp 558-559 as marked)

Countries	Statement	Source
The Netherlands and Japan	"In view of Japan's aggression against two powers with whom the Netherlands maintain particularly close relations, aggression directly threatening vital Netherlands interests, the Government of the Kingdom considers a state of war exists between the Netherlands and the Japanese Empire. (December 8, 1941)	Statement issued by the Netherlands Government, December 8, 1941. Printed in the New York Times, Dec. 8, 1941, p.7.
The Netherlands Indies and Japan.	"The Netherlands Indies Government today(December 8, 1941) declared war on Japan..."	Press despatch from Batavia, Netherlands Indies, dated December 8, 1941. Printed in the New York Times, Dec. 8, 1941, p.7.